

example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(ii) Violations of the Home Ownership and Equity Protection Act;

(iii) Violations of section 5 of the Federal Trade Commission Act;

(iv) Violations of section 8 of the Real Estate Settlement Procedures Act; and

(v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission.

(2) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the bank's assigned rating, the Board considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the bank (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the bank (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

[43 FR 47148, Oct. 12, 1978, as amended at 70 FR 44268, Aug. 2, 2005]

§ 228.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the Board takes into account the record of performance under the CRA of:

(1) Each applicant bank for the:

(i) Establishment of a domestic branch by a State member bank; and

(ii) Merger, consolidation, acquisition of assets, or assumption of liabilities requiring approval under the Bank Merger Act (12 U.S.C. 1828(c)) if the acquiring, assuming, or resulting bank is to be a State member bank; and

(2) Each insured depository institution (as defined in 12 U.S.C. 1813) controlled by an applicant and subsidiary bank or savings association proposed to be controlled by an applicant:

(i) To become a bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);

(ii) To acquire ownership or control of shares or all or substantially all of the assets of a bank, to cause a bank to become a subsidiary of a bank holding company, or to merge or consolidate a

bank holding company with any other bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);

(iii) To own, control or operate a savings association in a transaction that requires approval under section 4 of the Bank Holding Company Act (12 U.S.C. 1843);

(iv) To become a savings and loan holding company in a transaction that requires approval under section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a); and

(v) To acquire ownership or control of shares or all or substantially all of the assets of a savings association, to cause a savings association to become a subsidiary of a savings and loan holding company, or to merge or consolidate a savings and loan holding company with any other savings and loan holding company in a transaction that requires approval under section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

(b) *Interested parties.* In considering CRA performance in an application described in paragraph (a) of this section, the Board takes into account any views expressed by interested parties that are submitted in accordance with the Board's Rules of Procedure set forth in part 262 of this chapter.

(c) *Denial or conditional approval of application.* A bank or savings association's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(d) *Definitions.* For purposes of paragraphs (a)(2)(i), (ii), and (iii) of this section, "bank," "bank holding company," "subsidiary," and "savings association" have the meanings given to those terms in section 2 of the Bank Holding Company Act (12 U.S.C. 1841). For purposes of paragraphs (a)(2)(iv) and (v) of this section, "savings and loan holding company" and "subsidiary" has the meaning given to that term in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

[Reg. BB, 60 FR 22191, May 4, 1995, as amended at 76 FR 56532, Sept. 13, 2011]